

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LOUIS JENKINS,)	
)	
Petitioner,)	No. C 08-5333 CRB (PR)
)	
vs.)	ORDER OF DISMISSAL
)	
M. C. KRAMER, Warden,)	(Doc # 8)
)	
Respondent.)	

Petitioner, a state prisoner incarcerated at Folsom State Prison, has filed a second or successive petition for a writ of habeas corpus under 28 U.S.C. § 2254. His first petition was denied on the merits on May 3, 2001. See Jenkins v. Ayers, No. C 99-4450 CRB (PR) (N.D. Cal. May 3, 2001) (order).

A second or successive petition may not be filed in this court unless petitioner first obtains from the United States Court of Appeals for the Ninth Circuit an order authorizing this court to consider the petition. See 28 U.S.C. § 2244(b)(3)(A). Petitioner has not obtained such an order from the Ninth Circuit. The petition accordingly is DISMISSED without prejudice to refiling if petitioner obtains the necessary order.

Based solely on his affidavit of poverty, petitioner's application for leave to proceed in forma pauperis (doc # 9) is GRANTED.

The clerk shall enter judgment in favor of respondent and close the file.
SO ORDERED.

DATED: Dec. 04, 2008



CHARLES R. BREYER
United States District Judge